

Exhibit “AAA” to Amended Verified Petition

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 3

21 South Putt Corners Road, New Paltz, New York 12561-1696

Phone: (845) 256-3003 • FAX: (845) 255-3042

Website: www.dec.state.ny.us



Denise M. Sheehan
Acting
Commissioner

October 24, 2005

Leon Mehl
Mehlon Trucking, Inc.
P.O. Box 519
Wallkill, NY 12589

**RE: DRAFT Mined Land Permit
Kings Hill Road Shale Mine
Town of Montgomery, Orange County
DEC # 3-3342-00022/00005**

Dear Mr. Mehl:

The Department has completed review of your application referenced above and is ready to issue the attached permit. Please note that the Department has recently revised its required permit conditions to ensure greater statewide consistency. The seven conditions noted on the attached page will be required in every mining permit issued or renewed by the Department.

The enclosed draft permit includes these seven conditions. Please review this draft permit. Unless we receive a written objection from you within 30 days of the date of this letter, we will issue the permit as drafted.

Please note that this is only a draft permit and is not valid until the Department issues the final permit at the end of this 30-day period. If you have no objections and would like the permit issued before the 30-day period ends, please advise us in writing.

If there are any questions, I can be reached at (845) 256-3014.

Sincerely,

Alexander F. Ciesluk, Jr.
Deputy Regional Permits Administrator
Region 3

AFC/an

Enclosure (draft permit)

pc: (w/enc.)

R. Martin

Supervisor, Town of Montgomery

J. Raab, V. Doce Associates

95-20-6(10/90)-25c R3

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC PERMIT NUMBER 3-3342-00022/00005
FACILITY/PROGRAM NUMBER(s) NYS Mine No. 3023-32-0195



PERMIT
Under the Environmental Conservation Law (ECL)
DRAFT

EFFECTIVE DATE

EXPIRATION DATE
September 30, 2010

TYPE OF PERMIT (Check All Applicable Boxes)

 New Renewal Modification Permit to Construct Permit to Operate

Article 15, Title 5:
Protection of Waters

Article 17, Titles 7, 8:
SPDES

Article 27, Title 9: 6NYCRR 373:
Hazardous Waste Management

Article 15, Title 15:
Water Supply

Article 19:
Air Pollution Control

Article 34:
Coastal Erosion Management

Article 15, Title 15:
Water Transport

Article 23, Title 27:
Mined Land Reclamation

Article 36:
Floodplain Management

Article 15, Title 15:
Long Island Wells

Article 24:
Freshwater Wetlands

Articles 1, 3, 17, 19, 27, 37; 6NYCRR
380: Radiation Control

Article 15, Title 27:
Wild, Scenic & Recreational Rivers

Article 25:
Tidal Wetlands

Other _____

6NYCRR 608:
Water Quality Certification

Article 27, Title 7; 6NYCRR 360:
Solid Waste Management

PERMIT ISSUED TO
Mehlon Trucking Inc.

TELEPHONE NUMBER
845-895-2700

ADDRESS OF PERMITTEE
P.O. Box 519, Wallkill, NY 12589

CONTACT PERSON FOR PERMITTED WORK
Leon Mehl

TELEPHONE NUMBER

NAME AND ADDRESS OF PROJECT/FACILITY

Kings Hill Road Shale Mine

LOCATION OF PROJECT/FACILITY

159.9 acre parcel located east of Plains Road and north of Kings Hill Road

COUNTY Orange	TOWN Montgomery	WATERCOURSE/WETLAND NO.	NYTM COORDINATES E: N: 4
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DESCRIPTION OF AUTHORIZED ACTIVITY

Mine shale from an 18.1 acre portion, including four (4) acres previously mined and permitted, of a 159.9 acre property. Processing (crushing and screening) of material will be done at this mine site.

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified and any Special Conditions included as part of this permit.

DEPUTY PERMIT ADMINISTRATOR Alexander F. Ciesluk, Jr.	ADDRESS 21 South Putt Corners Rd., New Paltz NY 12561	■ AFC
AUTHORIZED SIGNATURE mehlontrucking022 pmt(ac2)an	Date	Page 1 of 5

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS**Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

GENERAL CONDITIONS**General Condition 1: Facility Inspection by the Department**

The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

General Condition 2: Relationship of this Permit to Other Department Orders and Determinations

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

General Condition 3: Applications for Permit Renewals or Modifications

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

The permittee must submit a renewal application at least:

- a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities (HWMF), major Air Pollution Control (APC) and Solid Waste Management Facilities (SWMF); and
- b) 30 days before expiration of all other permit types.

Submission of applications for permit renewal or modification are to be submitted to:

NYSDEC Regional Permit Administrator, Region 3
21 South Putt Corners Road, New Paltz, NY, 12561, (845) 256-3054

General Condition 4: Permit Modifications, Suspensions and Revocations by the Department

The Department reserves the right to modify, suspend or revoke this permit in accordance with 6 NYCRR Part 621. The grounds for modification, suspension or revocation include:

- a) materially false or inaccurate statements in the permit application or supporting papers;
- b) failure by the permittee to comply with any terms or conditions of the permit;
- c) exceeding the scope of the project as described in the permit application;
- d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

DEC PERMIT NUMBER	3-3342-00022/00005	MLR# 3023-32-0195	PAGE 2 OF 5
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ADDITIONAL GENERAL CONDITIONS FOR ARTICLE 23 TITLE 27 (Mined Land Reclamation)

1. Any required reclamation bond or other surety, in an amount determined by the Department, shall be maintained in full force and effect during the mining operation. Such a bond or other surety shall not be terminated until the reclamation of the mined area is approved by the Department in writing.
2. The permittee shall not deviate or depart from the approved mined land use plan without approval by the Department of an alteration or modification thereto.
3. If the permittee decides to discontinue operation, a termination notice must be filed 60 days prior to the scheduled temporary or permanent cessation of mining.
4. The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when notification is provided, be it written or verbal, at least 24 hours prior to such inspection.
5. If any archaeological or structural remains are encountered during excavation, the permittee must immediately cease, or cause to cease, all work in the area of the remains and notify the NYSDEC Region Office. Work shall not resume until written permission to do so has been received from the Department.
6. Unless expressly provided for, the issuance of this permit does not apply to any structures contained on the plans or in the specifications, nor does this permit apply to safety aspects of the operation and/or reclamation plan.
7. The enclosed permit and permit sign must be conspicuously posted in a publicly accessible location at the project site. They must be visible, legible and protected from the elements at all times.
8. All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or his agent as part of the permit application.

Such approved plans were prepared by _____ on _____

SPECIAL CONDITIONS

1. Mining shall be done in accordance with the Mined Land Use plan for Mehlon Trucking originally prepared by Wehran Engineering PC dated July 1988 and revised by Vincent J. Doce Associates, March 2003. The approved mining plan is identified as Sheet 2 of 10 in the revised plans by Vincent J. Doce Associates dated 11/03. The approved reclamation plan is identified as Sheet 3 or 10 in the revised plans by Vincent J. Doce Associates dated 11/03 with accompanying cross sections.
2. Control of stormwater drainage from the mine shall be done in strict accordance with the approved Mined Land Use Plan and sheets 6 through 10 of the revised plans by Vincent J. Doce Associates dated March 10, 2003. All drainage swales, diversion conduits and detention basins shall be constructed as the mine expands and in accordance with each Phase of the mine. There shall be no natural swales or channels or constructed features such as ditches, pipes, etc., that are capable of discharging waters to any offsite areas or to any areas outside the limits of the Life of Mine except those explicitly described and shown in the narrative and graphic portions of the approved Mined Land Use Plan. All silt laden water and storm water generated on, or running across, the site shall be retained within the approved project area. The permittee must comply with all applicable State Pollutant Discharge Elimination System (SPDES) permit requirements and provide necessary notifications for off-site point source discharges.
3. The permittee shall conduct a pre-blast survey upon request of any homeowner for any residences within 800 feet of the location of any blast at the mine. The permittee shall contact all homeowners within 800 feet of any blast area and seek permission to conduct the pre-blast study on each residential structure prior to commencing any blasts at the facility. Documentation to show compliance with this condition must be provided to New York State Department of Environmental Conservation's Regional Mining Specialist.
4. All blasts shall be monitored by seismographs to determine ground vibration and air blast pressure. The permittee shall retain records of each blast event and make them available to the Department upon request.

DEC PERMIT NUMBER

PROGRAM NUMBER

MLR# 3023-32-0195

Page 3 of 5

95-20-6F(787)-25CR3
Last Revised 7/97NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
21 South Pult Corners Road, New Paltz, NY 12561-1696**SPECIAL CONDITIONS**

For Article 23, Title 27 (Mined Land Reclamation)

5. Water or other approved dust palliatives must be applied to haulageways and other parts of the mine, as often as necessary, to prevent visible dust from leaving the mine property. All processing equipment shall be equipped with water spray bars to mitigate dust emissions. Processing equipment shall not be operated without adequate dust control. Dust from roads and other fugitive sources shall be controlled by water or approved chemical treatment. Topsoil stockpiles shall be seeded with grasses to prevent loss and dust emissions.
6. Upon completion of mining, the entire site shall be returned to a fully vegetated condition. The permittee shall reclaim sequential benches as the mine expands from the highest elevations. Reclamation at this mine is to be concurrent with the expansion of mining.
7. Hours of Operation at this mine are limited to 8:00 AM to 4:30 PM Monday thru Friday and 8:00 AM to 3:00 PM on Saturdays. No mining activity is allowed on Sundays or the following legal Holidays: New Year's Day, Memorial Day, Independence Day (July 4th), Labor Day, Thanksgiving and Christmas.
8. The permittee shall install a snow fence upon commencement of excavation into Phase 2. The snow fence shall be maintained until the Phases at the higher elevations are completely reclaimed.
9. The sale and/or removal of topsoil or overburden material from this mine is prohibited.
10. There shall be no storage of disabled vehicles, tires, trailers or construction and demolition debris at this mining facility.
11. Prior to the excavation of previously undisturbed areas, topsoil and overburden shall be stripped, stockpiled separately, and used for reclamation of mined areas. These stockpiles shall be seeded to establish a vegetative cover within 30 days, or as soon as practicable following their construction. The permittee shall locate all overburden stockpiles within the permitted area of the approved Life of Mine. Sufficient quantities of topsoil must be retained on the site for use in reclamation, unless prior approval is granted by the department.
12. Fueling of equipment shall be controlled to prevent spillage. Any spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to the Department's Spill Hotline number (1-800-457-7362) within 2 hours. The permittee shall retain the Department's Spill Response number for immediate access in the permittee's office and at the mine site.
13. Any required reclamation bond or other surety, in an amount determined by the Department, shall be maintained in full force and effect. Such a bond or other surety shall not be terminated until the reclamation of the mined area is approved by the Department in writing.
14. The permittee shall provide permanent markers such as stakes, posts or other devices acceptable to the Department to identify and delineate the permit area, as outlined on the approved Mining Plan Map. These markers are to be installed prior to the start of mining and shall be maintained for the duration of the permit term.

STATE ENVIRONMENTAL QUALITY REVIEW

95-20-6F(7/87)-25CR3
Last Revised 7/97NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
21 South Putt Corners Road, New Paltz, NY 12561-1696**SPECIAL CONDITIONS**

For Article 23, Title 27 (Mined Land Reclamation)

Under the State Environmental Quality Review Act (SEQR), the project associated with this permit is classified as a Type 1 Action with the Department of Environmental Conservation (DEC) designated as the lead agency. It has been determined that this project will not have a significant effect on the environment.

DISTRIBUTION:

R. Martin

Town Supervisor (Certified Mail #7004 0750 0002 4091 7192)

J. Raab, V. Doce Associates